

REMARKS

Applicants respectfully request reconsideration of the present application in view of the reasons that follow.

Remarks Regarding Non-Compliant Amendment

In the Notice of Non-Compliant Amendment, the Examiner stated that the amendment filed on September 27, 2010 did not comply with the requirements of 37 CFR 1.121(c) because of a failure to provide a marked up version of the amended claim 1. The Examiner contended that the status “Currently Amended” should have been listed as “Previously Presented.”

Applicants respectfully submit that the Examiner’s Notice of Non-Compliant Amendment was incorrect and that the reply filed on September 27, 2010 was proper. In the body of claim 1, the term “region” was amended to recite “regions” (and the underlining was included in the amendment). In a brief telephone call between the undersigned and the Examiner, the Examiner indicated that the Notice of Non-Compliant Amendment should be withdrawn because the Examiner did not see the underlined “s” and claim 1’s “Currently Amended” status identifier was correct. However, the Examiner requested that this response to the non-compliant amendment be filed for the purpose of completing the written record.

The below remarks were contained in the reply of September 27, 2010 and are shown below for clarity in the record. For clarity, the amendment to claim 1 now strikes a singular form of region and replaces it with “regions.”

Applicants respectfully request withdrawal of the notice of non-compliant amendment and entry of the amendment and reply contained herein.

Claim Rejections – 35 U.S.C. § 103

On page 4 of the Office Action, the Examiner rejected claims 1-4, 7, 10, 12, 14, 15, 21-24 and 26-28 as being unpatentable over U.S. Pub. No. 2003/0128191 to Strasser et al. (“Strasser”) in view of International Pub. No. 2003/088164 to Wells (“Wells”) under 35 U.S.C. § 103(a).

Claim 1

Claim 1 recites a “user interface for receiving inputs from a user” comprising, among other elements, “a rotary switch formed from the flexible sheet of the interface and configured for twisting relative to the at least one of a system of lights and the electronic display, wherein the rotary switch is configured to be twisted and to create one or more buckle points in the flexible sheet of the interface when twisted, the buckle points detectable by the touch sensitive surface.” Applicants respectfully submit that the combination of Strasser and Wells fails to disclose, teach or suggest the user interface of Claim 1.

A. The combination of Strasser and Wells fails to disclose, teach or suggest a rotary switch formed from a continuous flexible sheet of material

The only mention of rotary switch in Strasser is in para. [0017] which recites, in its entirety, “The switch 36 may be actuated to indicate a user input selection to the processor-based system 10. Examples of electrical switches include push-button switches, rotary switches and pivoting switches.”

Strasser does not mention an embodiment where the rotary switch mentioned in paragraph [0017] is formed from a continuous flexible sheet of material. Beyond paragraph [0017], Strasser includes no further mention of rotary switches. The Examiner acknowledges that Strasser “failed to disclose the switch being formed from flexible sheet” (rejection at Page 6)

Wells does not mention rotary switches. Therefore, Wells could not possibly explain how to modify a rotary switch of Strasser to be formed from a flexible sheet.

Despite these deficiencies, the Examiner contends that “it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Strasser’s user interface to include (or be made out of) flexible transparent material (i.e., silicon) as an alternative design choice and furthermore to increase the comfort of users fingers by having a flexible button rather than a rigid one.”

Applicants respectfully submit that even if one of skill in the art were to be motivated to use the material of Wells to make a rotary switch more comfortable to touch, such reasoning still does not address why or how one of skill in the art would have been motivated to modify Strasser and Wells to provide a rotary switch formed from a continuous flexible sheet of material. See In re Vaidyanathan, Fed. Cir. 2010, Slip op. at 16-17 (“Obviousness is determined as a matter of foresight, not hindsight” and “KSR ... did not remove the need to anchor the [obviousness] analysis in explanation of **how** a person of ordinary skill would select and apply the teachings of the references.”) (emphasis added).

Assuming, for the sake of argument, that one of skill in the art were to be motivated to use the material of Wells to make the rotary switch of Strasser more comfortable to touch, Applicants respectfully submit that the most straightforward way to implement such a rotary switch would be to build a conventional rotary switch (e.g., that includes a track or an axle for guiding the rotation and for sensing the rotation) out of the softer material. Applicants respectfully submit that this implementation approach would be the closest to anything supported by the structures and teachings of Strasser. In Strasser, switch 36 is only shown and described as something *separate* from transparent regions 18. See, for example, the Figures of Strasser (Fig. 2 reproduced below).

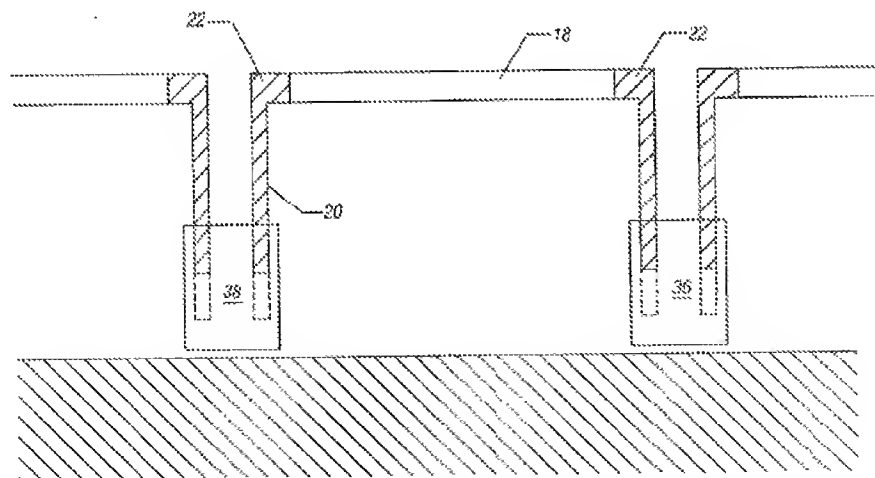


FIG. 2

Therefore, Applicants respectfully submit that one reading Strasser and Wells would be motivated to provide, at most, a rotary switch that is formed from a soft material but is *structurally separate* from adjacent transparent material or buttons. Given the structurally separate teaching of Strasser, Applicants respectfully submit that one of skill in the art would not have provided the claimed rotary switch formed from a continuous flexible sheet of material without a teaching or motivation. None of the prior art references provide such a teaching or motivation. Applicants respectfully submit that modifying Strasser and Wells to provide a rotary switch formed from a continuous flexible sheet of material requires that the person of skill in the art bridge a significant gap between Strasser and Wells. Bridging such a gap without factual support in either of the references or without an Examiner's declaration is inappropriate. See *Okajima v. Bourdeau*, 261 F.3d 1350, 1355 (Fed. Cir. 2001)(explaining that "[s]kill in the art does not act as a bridge over gaps in the substantive presentation of an obviousness case").

Applicants respectfully submit that the "user interface for receiving inputs from a user" recited in independent Claim 1, considered as a whole, would not have been obvious in view of Strasser and/or Wells. Therefore, Claim 1 is patentable over Strasser in view of Wells. The claims which depend from independent Claim 1 are also patentable. See 35 U.S.C. § 112 ¶ 4.

B. The combination of Strasser and Wells fails to disclose, teach, or suggest a rotary switch configured to be twisted and to create one or more buckle points in the flexible sheet of the interface when twisted, the buckle points detectable by the touch sensitive surface

The Examiner, on page 6 of the Office Action, acknowledges that "Strasser and Wells are silent regarding buckle points." However, the Examiner then concludes that "it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify teachings of Strasser et al. so to have the rotary switch twist to a maximum point such that a buckle point is formed, which causes resistance/restriction from any further movement of the rotary switch, in order to indicate to the user that the maximum rotation point has been reached."

The Examiner provides no factual support in Strasser or Wells to support his conclusion of obvious. “In making an obviousness rejection, the examiner should not rely on conclusory statements that a particular feature of the invention would have been obvious or well known.” *In re Vaidyanathan*, Fed. Cir. 2010, Slip op. at 17. Applicants respectfully submit that one of skill in the art might have used any number of more conventional techniques for indicating a maximum rotary twist point (e.g., using an axle-based rotary device having a limited rotary stroke, using a wall or other hard mechanical stop). Alternatively, one of ordinary skill in the art may have made the rotary switch infinitely variable (e.g., allowing the rotary device to continue rotating and handling maximum rotations via software, allowing the rotary device to continue rotating and repeating the scrolling process on a screen). Applicants respectfully submit that one of skill in the art would not have thought to purposefully create buckle points in order to make the buckle points detectable by a touch sensitive surface. The prior art of record is completely silent with respect to such a configuration. Given the more likely implementations for one of skill in the art to make and the complete lack of a relevant teaching in the prior art, Applicants respectfully submit that the Examiner is attempting to bridge a gap in the prior art using conclusory statements about what one of skill in the art would know. The Examiner has neither provided any findings regarding the level of ordinary skill in the art nor has provided any support for his conclusions regarding what a person of ordinary skill in the art would know. If the Examiner is relying on personal knowledge to bridge the gaps in the prior art, Applicants respectfully request that the Examiner submit an affidavit containing facts and reasoning to support the Examiner’s conclusions. *See* 37 C.F.R. § 1.104(d)(2)(“When a rejection in an application is based on facts within the personal knowledge of an employee of the Office, the data shall be as specific as possible, and the reference must be supported, when called for by the applicant, by the affidavit of such employee.”).

Given the acknowledged silence of the prior art with respect to the relevant claim language (i.e., “a rotary switch ... configured to be twisted and to create one or more buckle points in the flexible sheet of the interface when twisted, the buckle points detectable by the touch sensitive surface”) and the lack of other evidence to support the Examiner’s conclusions,

Applicants respectfully submit that Claim 1 would not have been obvious in view of Strasser and/or Wells. Therefore, Claim 1 is patentable over Strasser in view of Wells. The claims which depend from independent Claim 1 are also patentable. See 35 U.S.C. § 112 ¶ 4.

Claim 10

For many of the same reasons as recited above with respect to Claim 1, Applicants respectfully submit that the “user interface for a vehicle” recited in independent Claim 10 (as amended) would not have been obvious in view of Strasser, alone or in any proper combination with Wells under 35 U.S.C. § 103(a). Strasser alone or in any proper combination with Wells does not disclose, teach or suggest a “user interface for a vehicle” comprising, in combination with other elements, “a rotary switch formed from the flexible sheet of the interface and configured for twisting relative to the display, wherein the rotary switch is configured to be twisted and to create one or more buckle points in the flexible sheet when twisted, the buckle points detectable by the plurality of switches.” To transform the Strasser and Wells into the “user interface for a vehicle” (as recited in Claim 10) would require still further modification. Independent Claim 10, considered as a whole, would not have been obvious in view of Strasser and/or Wells. Therefore, amended Claim 10 is patentable over Strasser in view of Wells. The claims which depend from independent Claim 10 are also patentable. See 35 U.S.C. § 112 ¶ 4.

Claims 6, 8, 9, and 16

On page 14 of the Office Action, the Examiner rejected claims 6, 8, 9 and 16 as being unpatentable over Strasser in view of Walls and further in view of U.S. Pat. No. 6,282,464 to Obradovich (“Obradovich”) under 35 U.S.C. § 103(a).

Applicants respectfully submit that Obradovich does not cure the deficiencies noted above with respect to independent Claims 1 and 10 from which Claims 6, 8, 9, and 16 depend. Particularly, a word search reveals that Obradovich is silent on rotary switches. Yet further, Applicants respectfully submit that one of skill in the art would not have been motivated to

combine Obradovich with Strasser and Wells. Obradovich relates to a “technique for effectively providing audio information to a vehicle” (see Obradovich at Title). Neither of Strasser and Wells are directed to a similar technology. Accordingly, Applicants respectfully submit that Obradovich does not cure the deficiencies of Strasser and Wells for a number of reasons. Claims 6, 8, 9, and 16 are therefore patentable over any proper combination of Strasser, Wells, and Obradovich. Applicants respectfully request that the rejections of Claims 6, 8, 9, and 16 be withdrawn.

Claims 17-20

On page 17 of the Office Action the Examiner rejected Claims 17-20 as being unpatentable over Strasser in view of Obradovich under 35 U.S.C. § 103(a).

Applicants respectfully submit that the “user interface for a vehicle” recited in independent Claim 17 (as amended) would not have been obvious in view of Strasser, alone or in any proper combination with Obradovich under 35 U.S.C. § 103(a). Strasser alone or in any proper combination with Obradovich does not disclose, teach or suggest a “user interface for a vehicle” comprising, in combination with other elements, “a rotary switch formed from the material of the interface and configured for twisting relative to the display, wherein the rotary switch is configured to be twisted and to create one or more buckle points in the material when twisted, the buckle points detectable by the plurality of contact regions.” The Examiner acknowledges that Strasser is silent regarding buckle points. Further, Obradovich is silent on rotary switches altogether. Accordingly, Applicants respectfully submit that Strasser and Obradovich do not disclose, teach, or suggest the “user interface for a vehicle” as recite in amended Claim 17. To transform Strasser and Obradovich into the “user interface for a vehicle” (as recited in Claim 17) would require still further modification. Independent Claim 17, considered as a whole, would not have been obvious in view of Strasser and/or Obradovich. Therefore, amended Claim 17 is patentable over Strasser in view of Obradovich. The claims which depend from independent Claim 17 are also patentable. See 35 U.S.C. § 112 ¶ 4.

* * *

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741.

Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorize payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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